

IN THE MATTER OF
UNITED FINANCIAL MORTGAGE
CORPORATION

Respondent

BEFORE THE COMMISSIONER
OF
FINANCIAL REGULATION
Case No. DFR-EU-2008-008

* * * * *

STATEMENT OF THE CASE

The hearing on the above captioned matter was held on May 15, 2008, and heard by the Maryland Deputy Commissioner of Financial Regulation, Mark Kaufman ("Deputy Commissioner"). This matter was scheduled for a hearing as a result of a charge letter dated March 17, 2008, issued by the Office of the Commissioner of Financial Regulation to United Financial Mortgage Corporation ("Respondent"). [Comm'r #3]. During all times relevant to the case, Respondent was a mortgage lender licensed pursuant to Md. Code Ann., Fin. Inst. ("FI") § 11-501 *et seq.* [Comm'r # 2]. The charge letter alleges that Respondent has violated FI § 11-517(a)(4) and (5) in connection with negotiating checks on Respondent's closed bank account. [Comm'r #3]. Marc Anthony Cecil Cox appeared on behalf of Respondent. Respondent was not represented by counsel. Matthew Lawrence, Assistant Attorney General, appeared as presenter of evidence on behalf of the Office of the Commissioner. Christopher J. Young, Assistant Attorney General, served as counsel to the Deputy Commissioner. The proceedings were electronically recorded.

FINDINGS OF FACT

From the testimony offered and the exhibits presented, and with the opportunity to observe the demeanor of the witness and to assess his credibility, the Deputy Commissioner finds

the relevant facts to be these:

1. During all relevant periods, Respondent was a duly licensed mortgage lender under 11-501 *et seq.* [CFR 2].
2. Marc Anthony Cecil Cox is the sole owner of Respondent. [Testimony of Mr. Cox].
3. Mr. Cox, stipulated to the fact that he wrote numerous checks on Respondent's closed Chevy Chase Bank account, as follows:
 - a. Mr. Cox, in open hearing, marked copies of 31 checks with the words "I did" in blue ink, which Mr. Cox testified meant that he did in fact write and negotiate those checks so marked on Respondent's closed Chevy Chase Bank account. [Testimony of Mr. Cox; Comm'r #4].
 - b. The total amount of the bad checks written by Mr. Cox on the closed account is \$46,337.66. [Comm'r #4].
 - c. Mr. Cox knew at the time that he wrote checks that Respondent's Chevy Chase Bank account was closed. [Testimony of Mr. Cox].
4. Respondent had positive earnings in during the last year. [Testimony of Mr. Cox].

CONCLUSIONS OF LAW

Based on the Findings of Fact, the Deputy Commissioner concludes that Respondent has violated FI § 11-517(a)(5) because Mr. Cox, the sole owner of Respondent, demonstrated unworthiness, bad faith, dishonesty, and other qualities that indicate that the business of Respondent has not been and will not be conducted honestly, fairly, equitably, and efficiently.

Additionally, the Deputy Commissioner finds that Respondent violated FI § 11-517(a)(4) by virtue of the foregoing violation of FI § 11-517(a)(5).

Pursuant to FI §§ 11-517(a) (4), and (5):

"Subject to the hearing provisions of § 11-518 of this subtitle, the Commissioner may suspend or revoke the license of any licensee if the licensee or any owner, director, officer, member, partner, stockholder, employee, or agent of the licensee:

- (4) Violates any provision of this subtitle or any rule or regulation adopted under it or any other law regulating mortgage loan lending in the State; or
- (5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly, fairly, equitably, and efficiently."

In this case, it is undisputed that Mr. Cox knowingly wrote and negotiated 31 checks totaling \$46,337.66 on Respondent's closed Chevy Chase Bank account. The fact that Mr. Cox conducted this illegal and dishonest activity involving financial transactions not just once, but 31 times, and did so knowing the bank account was closed, shows a prolonged pattern of Mr. Cox's serious disregard for the law, a clear willingness to engage in illegal and dishonest financial transactions, and extremely poor judgment.

The Deputy Commissioner commends Mr. Cox for admitting to the wrongful actions he has taken, and, if his assertion on this point is true, the fact that he ultimately made good on the bad checks. [Testimony of Mr. Cox]. That said, however, this positive behavior is not enough to overcome the extremely serious nature of Mr. Cox's repeated dishonest and illegal activities.

The Deputy Commissioner finds that Respondent's violation of law through Mr. Cox's actions were of the utmost seriousness, showed bad faith (especially because they were committed repeatedly and knowingly), and have had a deleterious effect on the public and the mortgage industry (on this point, we underscore the financial nature of the dishonest and illegal

activity). No evidence was introduced regarding any history of previous violations of law by Respondent. Respondent appears to have at least some financial assets given that Mr. Cox asserts that debts resulting from the checks were ultimately paid and that Respondent had positive earnings last year.

The Deputy Commissioner concludes that the public would not be well served if Respondent were permitted to maintain its mortgage lender license. Mr. Cox's willful violation of the law in connection with financial transactions suggests that anything less than revocation of Respondent's mortgage lender license would place Maryland consumers and the mortgage industry at undue risk of additional harm.

We note that Respondent's mortgage lender license expired on March 25, 2008. The expiration of Respondent's mortgage lender license, however, does not nullify the Commissioner's jurisdiction over Respondent with respect to violations that had occurred prior to the expiration. To conclude otherwise would defeat a significant purpose of the Maryland Mortgage Lender Law, which is to protect the public from licensees who violate laws that govern mortgage lending and brokering in the State.

If it would be possible for a licensee to avoid sanction for violations otherwise within the Commissioner's jurisdiction by the simple device of allowing its license to expire prior to a hearing, the public would be left unprotected, and the very purpose of the law would be defeated. Such a construction would be unreasonable, illogical and inconsistent with common sense. It should be avoided. Kaczorowski v. City of Baltimore, 309 Md. 505, 516, 525 A.2d 628 (1987). *See also*, William Devereux Zantzing v. Maryland State real Estate Commission, No. CV92-849 (Circuit Court for Charles County, December 22, 1991). Moreover, even as to the most

severe administrative penalty of license revocation, “[it] is no defense to an order of suspension or revocation that the license has lapsed, expired, or been voluntarily surrendered.” 51 Am. Jur. 2d, Licenses and permits, § 95; *see also Nicoletti v. State Board of Vehicle Manufacturers, Dealers, and Salespersons*, 706 A.2d 891 (1998)(Commonwealth Court of Pennsylvania upholding the revocation of a salespersons license by an administrative agency after its expiration).

FINAL ORDER

In consideration of the foregoing Findings of Fact and Conclusions of Law, it is this 9th day of June, 2008, hereby:

ORDERED that pursuant to FI §§ 11-517(a) (4), and (5), Respondent’s mortgage lenders license is hereby, REVOKED and the records of the Commissioner shall reflect the same; and it is further

ORDERED that pursuant to FI § 11-517(c), Respondent shall pay to the Commissioner a CIVIL PENALTY in the amount of \$1,000 within thirty (30) days of the date of this Order. Payment shall be made by a certified or bank check made payable to the Maryland Commissioner of Financial Regulation and Respondent shall deliver the payment to:

The Commissioner of Financial Regulation
500 North Calvert Street, Suite 402
Attn: Suzanne Elbon
Baltimore, Maryland 21202

Pursuant to State Govt. Art., Section 10-222, any party who is aggrieved by the Commissioner's decision, may file a petition for judicial review with the Circuit Court for the county where any party resides or has a principal place of business. Such petition must be filed

within 30 days after Applicant's receipt of this Order (Md. Rule 7-203). The filing of a petition for judicial review does not automatically stay the enforcement of the Final Order.

MARYLAND COMMISSIONER OF FINANCIAL REGULATION

By:



Mark Kaufman, Deputy Commissioner